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GALLATIN COUNTY CLERK
OF DISTRICT COURT
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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

BY ______ DEPUTY

THE STATE OF MONTANA,

Plaintiff,

No. DC-11-198C

v.

SANDRA POOLE SALES,

Defendant.

AFFIDAVIT OF PROBABLE CAUSE AND MOTION FOR LEAVE TO FILE INFORMATION

* * * * * * * * * * * * * *

COMES NOW Todd S. Whipple, Chief Deputy County Attorney, and being first duly sworn upon oath, deposes and says as follows:

1. Your affiant is a Deputy Gallatin County Attorney, and by law one of the attorneys to prosecute criminal matters in the State of Montana.

2. Pursuant to a report of investigation prepared by Detective Don Peterson of the Gallatin County Sheriff's Office, your affiant is aware of the following.

3. On or about May 4, 2011, attorney, Kevin Fife of Olsen and Hogan, P.C. in Logan, Utah, contacted the Gallatin County Sheriff's Office to report a possible theft and elder abuse. Fife reported that he had been retained by Alice Poole to look into her financial accounts. Fife stated Poole and her sister, Joyce Tarbet, suspected Poole's daughter, Sandra Poole Sales (hereinafter the defendant), stole money from Poole's bank

accounts.

4. Fife advised Detective Peterson that he had reviewed bank statements from Poole's Ireland Bank of Lava Hot Springs, Idaho account and Poole's First Interstate Bank of Bozeman, Montana account. Fife explained that it appeared that the defendant had been making withdrawals from the two accounts belonging to Poole from May of 2009, through March of 2011. Fife stated the majority of the withdrawals were made without Poole's knowledge or consent.

5. Fife provided Detective Peterson with a certified letter dated April 19, 2011, addressed to the defendant from Fife, explaining the nature of the complaint and allegations that included theft of funds from Poole. The letter gave the defendant 10 days to provide certified funds in the amount of $45,000 payable to Poole "to rectify your deeds." Fife informed Detective Peterson that after the 10 days the defendant made contact and requested to make a payment plan to pay the money back to Poole. Fife told the defendant that he had already turned the case over to law enforcement. Fife provided contact information for Poole and Tarbet, advising that Poole suffered from memory loss and contacting Tarbet may be helpful in the investigation.

6. On or about May 10, 2011, Detective Peterson received copies of bank statements from Poole's accounts at Ireland Bank and First Interstate Bank.

7. On or about May 12, 2011, Detective Peterson spoke to

Tarbet by telephone. Tarbet informed Detective Peterson that in May of 2009, the defendant went to Lava Hot Springs, Idaho, with the purpose of moving Poole to the defendant's residence in Bozeman, Montana. Tarbet stated Poole did not want to move to Bozeman but that the defendant gave her no choice. Tarbet described Poole as "weeping" and "devastated" about the forced move to Bozeman.

8. Tarbet stated she had asked the defendant to move Poole to the assisting living area that Tarbet resided in and the defendant told her that it was not an option. Tarbet informed Detective Peterson that Poole stayed with the defendant in Bozeman for about 10 months and was reportedly charged $800 per month for room and board.

9. Tarbet stated in March of 2010, the defendant called her and advised that she was moving Poole to an assisted living place known as Safe Haven in Lava Hot Springs, Idaho. Tarbet stated the defendant told her "we can't take it anymore." Tarbet stated that after Poole was moved back to Lava Hot Springs, Poole informed her that she did not know where her money was. Tarbet stated she began looking into the situation and located Poole's checking account at First Interstate Bank in Bozeman. Tarbet stated she assisted Poole in closing the account and transferring funds to a new account. Tarbet stated she noticed suspicious withdrawals from Poole's First Interstate Bank account and contacted Fife for assistance.

10. On or about May 30, 2011, Detective Peterson spoke to Poole by telephone. When asked about the move to Bozeman, Poole stated she felt "coerced" into the move. Poole stated she had wanted to move to Lewiston, Utah to be closer to Tarbet. Poole stated she lived with the defendant and her family at 5200 Bostwick Road, Bozeman, Montana, from approximately May of 2009, through March of 2010. Poole stated during that time she had a checking account with the Ireland Bank in Lava Hot Springs. Poole informed Detective Peterson that the defendant assisted her with her finances as she "could not add 2 and 2".

11. Poole informed Detective Peterson that the defendant never had permission to withdrawal funds from her accounts for anything other than to assist in paying Poole's bills and further stated she had never given the defendant permission to sign her name on her checks.

12. Upon reviewing Poole's bank statements, Detective Peterson learned that the defendant was added to Poole's Ireland Bank account in July of 2009, and at the same time, the defendant's name was added to Poole's checks. Poole informed Detective Peterson that since she moved to Bozeman and back to Lava Hot Springs, the defendant has not allowed her to see any of her bank statements. Poole stated when she would ask the defendant to see the bank statements, the defendant would argue with her and Poole would drop the subject. Poole contested the following withdrawals and checks that had been written on Poole's

Ireland Bank account without her knowledge or consent:

Check #	Date	Pay to the Order of	Amount
2695	05/26/09	Sandra Sales	$300.00
2696	05/27/09	Cash	$150.00
2808	07/20/09	Account xx74-06	$1,000.00
2811	07/22/09	Sandra Sales	$306.44
2830	09/08/09	Sandra Sales	$300.00
2834	09/11/09	Old Navy	$38.99
2836	09/10/09	Murdoch's	$31.98
2843	10/01/09	WalMart	$171.89
2858	11/14/09	Macy's	$219.05
2861	11/28/09	Sandra Sales	$500.00
2866	12/03/09	Famous Footwear	$74.98
2868	12/09/09	Kim Sinrud	$38.75
2884	02/18/10	Sandra Sales	$100.00
2885	02/07/10	Costco	$162.04
2888	03/02/10	Sandra Sales	$500.00
2891	01/18/10	Sandra Sales	$550.00
2902	02/12/10	Macy's	$469.68
2908	04/09/10	Target	$47.23
		Total	**$4,961.03**

13. On or about June 28, 2011, Detective Cory Klumb of the Bozeman Police Department, examined the checks in question from Poole's Ireland Bank account and determined the defendant was the author of the body and duplication of Poole's signature on check number 2695 written on May 26, 2009, before the defendant was added to Poole's account.

14. Detective Peterson learned bank statements show that on

April 8, 2010, a bank account at First Interstate Bank in Bozeman ending in 0477 was opened in the names of Alice Poole and Sandra Sales. The statements show that the account was opened with a deposit of a check from the Utah Power Credit Union made out to Poole. The check was in the amount of $8,372.19. $8,000 was deposited into the First Interstate Bank account and $372.19 was cashed to the defendant. The following are internet transactions made on Poole's First Interstate Bank account ending in 0477 without her knowledge or permission:

Date	Transaction Type	To	Amount
05/03/10	Internet	Account #4904	$100.00
05/03/10	Internet	Account #4904	$500.00
05/25/10	Internet	Account #4904	$150.00
06/01/10	Internet	Account #4904	$500.00
06/03/10	Check #1008	Cold Water Creek	$294.89
06/14/10	Check #1014	Holiday Gas Station	$34.24
06/15/10	Check #1013	Target	$8.01
06/18/10	Internet	Account #4904	$200.00
06/21/10	Internet	Account #4904	$150.00
06/24/10	Internet	Account #4904	$100.00
06/28/10	Internet	Account #4904	$1,000.00
07/06/10	Internet	Account #4904	$1,000.00
07/07/10	Internet	Account #5367	$250.00
07/07/10	Internet	Account #4904	$500.00
07/12/10	Internet	Account #4904	$500.00
07/14/10	Internet	Account #4904	$1,000.00
07/23/10	Internet	Account #4904	$500.00
08/06/10	Internet	Account #4904	$400.00
08/13/10	Internet	Account #4904	$150.00
08/17/10	Internet	Account #4904	$400.00

08/19/10	Internet	Account #4904	$400.00
08/20/10	Internet	Account #4904	$200.00
08/23/10	Internet	Account #4670	$1,500.00
08/25/10	Internet	Account #4904	$300.00
08/30/10	Internet	Account #4904	$50.00
08/31/10	Internet	Account #4904	$75.00
09/01/10	Internet	Account #4904	$100.00
09/14/10	Internet	Account #4904	$150.00
09/27/10	Internet	Account #4904	$400.00
09/29/10	Internet	Account #4904	$150.00
10/20/10	Internet	Account #4904	$100.00
10/25/10	Internet	Account #4904	$200.00
11/04/10	Internet	Account #4904	$150.00
11/05/10	Internet	Account #4904	$150.00
11/12/10	Internet	Account #4904	$250.00
11/12/10	Internet	Account #4904	$600.00
01/18/11	Internet	Account #4904	$1,300.00
01/31/11	Internet	Account #4904	$125.00
		Total	**$13,937.14**

15. Poole informed Detective Peterson that the defendant's name was on her First Interstate Bank account ending in 0477 so the defendant could more easily assist Poole with her finances. Poole stated she did not give permission to the defendant to use funds from her account for anything other than to assist her with finances and debts acquired by Poole. Detective Peterson later learned that First Interstate Bank account number ending in 4904, in which transfers were made to from Poole's account belonged to the defendant.

16. Poole stated that after opening her First Interstate

Bank account ending in 0477, the defendant told her that Poole would need to be moved into a rest home in Bozeman or to Safe Haven in Lava Hot Springs. Poole stated she again requested to move to Lewiston, Utah to be close to Tarbet but was again told by the defendant that it was not possible. Poole stated she chose Safe Haven.

17. Poole explained a few days later she was moved to Safe Haven and stayed there until March of 2011. Poole stated during the year she was at Safe Haven, she kept her banking account at First Interstate Bank in Bozeman and did not have access to her account. Poole stated the defendant was the only other person to have access to the account.

18. Poole stated she confronted the defendant. Poole stated the defendant told her that Poole had always given the defendant's siblings money and she felt that it was owed to her as she was never given as much money has her siblings.

19. Since Fife sent the letter to the defendant, Poole stated the defendant has harassed her and advised her that she would no longer be able to see her grandchildren. Poole stated the defendant also made statements to Poole that she may go to jail and attempted to blame Poole.

20. Detective Peterson learned the defendant sent Poole three checks as payment. Fife informed Detective Peterson that he advised Poole not to deposit or cash the checks as there was a criminal investigation. Fife provided Detective Peterson with

copies of 2 of the 3 checks received by Poole.

21. On or about July 18, 2011, Detective Peterson was contacted again by Tarbet. Tarbet explained that Poole had received notification from a credit collection agency of past due accounts. In looking at Poole's credit history, Detective Peterson learned that a credit account was opened in Poole's name in October of 2010, and at that time a charge of $1,205 was put on the account.

22. On or about August 10, 2011, Detective Peterson interviewed the defendant who was present with her attorney Colleen Herrington. The defendant stated she was added to Poole's Ireland Bank checking account in Lava Hot Springs to pay Poole's bills. The defendant admitted to duplicating Poole's signature on checks 2693 and 2695 prior to being added to the account as a signor. The defendant disputed that any checks written by herself to any credit card companies or retail stores were in her benefit. The defendant did not dispute the checks written from the First Interstate Bank account to the Holiday Gas Station on June 14, 2010, and Coldwater Creek on June 3, 2010.

23. The defendant disputed the checks that she had written to herself stating Poole would routinely want cash and asked the defendant to write the checks to get cash for her. This statement contradicted the bank records as the records show that about once a month Poole would write and/or sign a check to the defendant. The defendant's bank account records show that four of the eight

checks written by the defendant to the defendant were deposited in the defendant's First Interstate Bank account ending in 4904. The defendant did not dispute that she made the internet transfers from Poole's bank account ending in 0477 to her bank account ending in 4904.

24. The defendant also disputed the transfers made to two other accounts in the amounts of $250 and $1,500. The defendant stated the two accounts belonged to her daughter, Emma. The defendant stated the $250 and $1,500 had been gifts from Poole to Emma. Poole denies giving such gifts and stated she did not have access to her account to make the internet transactions herself. Detective Peterson learned that the defendant routinely shops at the stores where the checks in question were written. Check number 1013 was written to Target by the defendant on June 15, 2010, after Poole had been moved back to Idaho. The defendant admitted that she had felt the money was owed to her as her siblings had received monetary gifts in the past that she did not.

25. On or about August 17, 2011, Detective Peterson spoke with Tarbet who questioned Poole's prescription medical co-payments. Tarbet stated that during Poole's stay with the defendant, she had noticed that there were not deposits made from Caremark for Poole's out of the pocket prescription medication. On the same date, Detective Peterson spoke with a Caremark representative that confirmed co-payment checks would have been sent to Poole for reimbursement of out of pocket expenses acquired

when purchasing her prescription medications. The representative stated that the co-payment checks would have been sent to Poole's Bozeman address once the deductible was met.

26. Detective Peterson reviewed Poole's records and learned Poole's deductible was met in June of 2009, and that between June of 2009, and December of 2009, co-payments were made by Caremark totaling $603.35. Poole stated she did not remember receiving the checks from Caremark. Detective Peterson learned that Poole's bank records do not show that co-payments were deposited in either of her Ireland Bank account or First Interstate Bank account.

27. Detective Peterson concluded that the defendant took a total of $19,873.71 from Poole.

Based upon the foregoing facts, the undersigned moves this court to grant leave to file an information charging the above-named defendant with the offenses of: COUNT 1: Theft, a common scheme, a Felony, in violation of Section 45-6-301, MCA.

DATED this 3rd day of October, 2011.

Todd S. Whipple
Chief Deputy County Attorney

SUBSCRIBED and SWORN to before me this 3 day of Oct., 2011.

Jae Hoskins
Notary Public
for the State of Montana
Residing at:
Bozeman, Montana
My Commission Expires:
March 27, 2014

JAE HOSKINS NOTARIAL SEAL STATE OF MONTANA

NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Bozeman, Montana
My commission expires: